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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,848	01/16/2004	Laverne Woock	11968-1	1847

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EXAMINER

GRAHAM, MARK S

ART UNIT PAPER NUMBER

3711

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,848

Applicant(s)

WOOCK, LAVERNE

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/20/04</u> . | 6) <input type="checkbox"/> Other: ____ |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Pulkrabek '440 (Pulkrabek). Pulkrabek's elements 10 or 14 may be considered the flexible sleeve.

Regarding claim 11, element 14 may be considered the flexible sleeve.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pulkrabek. Pulkrabek does not specifically disclose polypropylene as a material for his cover 14 but does indicate that various plastics may be used. Polypropylene is commonly known and would have obviously been suitable for Pulkrabek's purpose if such were the most readily available to the ordinarily skilled artisan.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pulkrabek in view of Pulkrabek '659. Pulkrabek discloses the claimed device with the exception of the vertical orientation of claim 7 and the surrounding foam of claim 8. However, both of these features are known in the art for use with targets such as Pulkrabek's as disclosed by the '659 publication, (Figs. 9 and 10-12). It would have been obvious to one of ordinary skill in the art to

have used such constructions with Pulkrabek's target for the reasons espoused in the '659 publication.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pulkrabek in view of Stewart.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pulkrabek in view of Stewart. As disclosed by Stewart it is known in the art to use a replaceable element on a flat foam target. It would have been obvious to one of ordinary skill in the art to have used Pulkrabek's device in the same manner if it was desired to use it as a replaceable element.

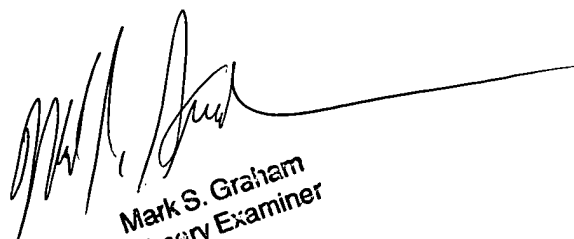
Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pulkrabek in view of Wu. Pulkrabek discloses the method with the exception of the cutting step. However, as disclosed by Wu such is a known step in mass producing targets. It would have been obvious to one of ordinary skill in the art to have done the same with Pulkrabek's target if it was desired to mass produce it.

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Schlotter et al., Morrell, Ingold, and Batts, III have been cited for interest because they disclose similar devices.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 703-308-1355.

MSG
6/21/04



Mark S. Graham
Primary Examiner